

Federal Communications Commission
Washington, D.C. 20554

DA 11-1268
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Alpha Broadcasting Corporation
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Wiley Rein LLP
1776 K Street, N.W.
Washington, DC 20006

Re: Application for Consent to Transfer of Control
WSVI(TV), Christiansted, USVI, Fac. ID No. 2370
WZVI(TV), Charlotte Amalie, USVI, Fac. ID No. 83270
File No. BTCCDT-20110428ABK

Dear Counsel:

This concerns the above-referenced application for Commission consent to transfer control of Alpha Broadcasting Corporation ("Alpha"), the licensee of commercial television stations WSVI(TV), Christiansted, U.S. Virgin Islands, and WZVI(TV), Charlotte, Amalie, U.S. Virgin Islands, from Figgie Family Equity Fund Limited, L.L.C., to Atlas News and Information Services, Inc. As part of this transaction, Alpha requests continuing satellite authority, pursuant to Section 73.3555, Note 5 of the Commission's rules, to operate WZVI(TV) as a satellite of WSVI(TV).¹

In *Television Satellite Stations*² the Commission stated that all applicants seeking to transfer or assign satellite stations must justify continued satellite status by demonstrating compliance with a three-part "presumptive" satellite exemption standard applicable to new satellite stations. The presumptive satellite exemption is met if the following three public interest criteria are satisfied: (1) there is no City Grade overlap between the parent and the satellite; (2) the proposed satellite would provide service to an underserved area; and (3) no alternative operator is ready and able to construct or to purchase and operate the satellite as a full-service station.³ If an applicant does not qualify for the presumption, the Commission

¹ 47 C.F.R. § 73.3555, Note 5. Authority to operate WZVI(TV) as a satellite of WSVI(TV) was initially granted by the Commission on May 17, 2001. See *Marri Broadcasting, L.P.*, Memorandum Opinion and Order, 16 FCC Rcd 10772 (Vid. Ser. 2001).

² *Television Satellite Stations Review of Policy and Rules*, MM Docket No. 87-8, Report and Order, 6 FCC Rcd 4212, 4215 (1991) (subsequent history omitted).

³ *Id.* at 4213-14.

will evaluate the proposal on an *ad hoc* basis, and grant the application if there are compelling circumstances that warrant approval.⁴

As to the first criterion, in the digital television era there is no longer a concept of a city-grade contour. Historically, WZVI(TV)'s analog city-grade contour overlapped that of its parent, WSVI(TV). However, Alpha explains that the Commission found that WZVI(TV) qualified for satellite status because the city-grade overlap occurred entirely over water. Regarding the second criterion, Charlotte Amalie, WZVI(TV)'s community of license, continues to qualify as an underserved area under the Commission's transmission test. Alpha notes that when the Commission originally granted WZVI(TV) satellite status, it determined that Charlotte Amalie was then served by only two full-power television stations. According to Alpha, in the decade since the Commission issued WZVI(TV)'s original construction permit, no new full-service television stations have been authorized in Charlotte Amalie.

Regarding the third criterion, Alpha asserts that no alternative operator is ready to purchase and operate WZVI(TV) as a full-service, stand-alone station. In support of this contention, Alpha submits a letter from Richard L. Sharpe, President of R.L. Sharpe, Ltd., a media brokerage and investment banking firm specializing in television station transactions. Mr. Sharpe states that he has over 25 years of experience in the broadcast industry as a broker of broadcast properties, and has appraised over 1,000 broadcast properties in all sections of the United States. He asserts that there are two owners with full-power commercial television outlets on the air and licensed to Charlotte Amalie. Mr. Sharpe explains that the NBC and CBS affiliations for the U.S. Virgin Islands are held by two low power television stations that are also licensed to Charlotte Amalie. Furthermore, he adds that the U.S. Virgin Islands television market is comprised of two islands in addition to St. Croix, where WSVI(TV) is located, and portions of the islands contain varied and hilly terrain. Thus, it is difficult to provide over-the-air service to the entire television market without using satellite facilities.

Mr. Sharpe concludes that it would be impracticable for WZVI(TV) to adequately serve the entire U.S. Virgin Islands television market. He contends that with a number of outlets competing in this small market, it would not be practical for any of the satellite stations to compete with full-power stations or with low power stations that hold network affiliations. Moreover, he avers that the full-power stations in the U.S. Virgin Islands are having a difficult time, even in the major population center. According to Mr. Sharpe, a satellite station would not even have an affiliation available to enable it to compete. He explains that WZVI(TV) does not provide a signal strong enough to cover the market, nor does it reach St. Croix. Without a network affiliation, and with over-the-air coverage difficulties, states Mr. Sharpe, the ability of WZVI(TV) to serve as a full-service facility would be a futile economic pursuit. Mr. Sharpe states that if WZVI(TV) was forced to operate as a stand-alone operation and compete in the market, not only would it suffer financially, but the viewers in its coverage area would be denied pertinent network news and weather they now receive from WZVI(TV)'s satellite operations. Finally, Mr. Sharpe asserts that, knowing that a prospective buyer would be hard pressed to find a successful format in a healthy environment, let alone during a recession, he would be hesitant to offer the station for sale as a stand-alone facility.

Based on our review of the materials submitted, we find that Alpha has set forth information sufficient to warrant continued satellite operations for WZVI(TV) under our *ad hoc* analysis. The Commission originally granted WZVI(TV) satellite authority in 2001, and the factors upon which we

⁴ *Id.* at 4212.

based our original grant have not changed to such an extent as to alter the determination here. Thus, the unique terrain and economic obstacles to full-service operation in the U.S. Virgin Islands constitute “compelling circumstances” warranting continued satellite status. We, therefore, conclude that continued operation of WZVI(TV) as a satellite of WSVI(TV) would serve the public interest.

In view of the foregoing, and having determined that the applicant is qualified in all respects, we find that a grant of the above-referenced application would serve the public interest, convenience and necessity. **ACCORDINGLY**, the request of Alpha Broadcasting Corporation for continued operation of WZVI(TV), Charlotte Amalie, U.S. Virgin Islands as a satellite of WSVI(TV), Christiansted, U.S. Virgin Islands, pursuant to the satellite exception to the duopoly rule, Section 73.3555, Note 5, of the Commission’s rules, **IS GRANTED**.

FURTHERMORE, the above-referenced application for consent to transfer control of Alpha Broadcasting Corporation, the licensee of commercial television stations WSVI(TV), Christiansted, U.S. Virgin Islands, and WZVI(TV), Charlotte, Amalie, U.S. Virgin Islands, from Figgie Family Equity Fund Limited, L.L.C., to Atlas News and Information Services, Inc., **IS GRANTED**.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau